

REMARKS UNDER 37 CFR § 1.116

Formal Matters

Claims 1-10, 18, 19, 29 and 31-33 are now pending in this application.

Claims 12-17 were previously canceled. In this amendment claims 11, 20-28, 30 and 34 have been canceled.

In this amendment claims 1, 2 and 33 have been amended. The amendments to claim 1 incorporate a limitation contained within the previous form of claim 2. Because the limitation has been added to claim 1 it has been deleted from claim 2 which is also amended. A similar amendment has been made to claim 33. Specifically, the limitation contained within previously pending, now canceled claim 34 has been incorporated into claim 33.

Because these claim amendments (1) cancel claims and (2) incorporate limitations contained within previously pending dependent claims the amendments are believed to be allowable under 37 C.F.R. §1.116 and their entry is respectfully requested.

No new matter has been added.

Rejection under 35 U.S.C. §112, first paragraph

Claims 11 and 23-28 were rejected under 35 U.S.C. §112, first paragraph. Although applicants do not acquiesce to the rejection applicants wish to expedite prosecution. Accordingly, claims 11 and 23-28 have been canceled. Accordingly, the rejection has been rendered moot.

Claims 1, 3-11, 18, 19 and 29-33 were rejected under 35 U.S.C. §112, second paragraph. In support of the rejection it was argued that the claims were indefinite in that they did not recite that the preparation included a known amount of prions.

Again, applicants do not acquiesce to the rejection. However, applicants wish to expedite prosecution of the application. The rejection was not made with respect to dependent claim 34 which specifically recited the preparation as comprising “a known number of infectious units.” In view of such the only independent claims pending in the application (claims 1 and 33) have been amended. The amendments specifically indicate that the standardized preparation includes a known number of infectious units. In view of such the rejection is believed to have been overcome.

Allowable Subject Matter

Applicants gratefully acknowledge the Examiner indicating that claims 2 and 34 encompass allowable subject matter. Further, applicants gratefully acknowledge the Examiner's withdrawal of the objections to the specification as well as the double patenting rejection.

Conclusion

Claims 11 and 23-28 were cancelled rendering the 35 U.S.C. §112 rejection moot. Independent claims 1 and 33 were amended to incorporate limitations contained within previously pending now canceled claim 34. In that claim 34 was indicated as encompassing allowable subject matter the independent claims are now believed to be allowable. In that no objections have been raised with respect to the dependent claims the application is now believed to be in condition for allowance and an indication of such is respectfully requested.

In the event that minor issues remain unresolved the Examiner is respectfully requested to contact the undersigned attorney at the indicated telephone number to arrange for an interview to disposition of this application.

In the event any fees are due in connection with the filing of this amendment or extensions are required applicant petitions for any required extensions and authorize the Commissioner to charge the cost of such extensions or other required fees to our Deposit Account No. 50-0815, order number UCAL-056CIP4.

Respectfully submitted,
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